

REMARKS

The pending final Office Action addresses and rejects claims 1-19.

Claim Amendments

Claim 9 is amended to recite "contacting the tissue scaffold" as suggested by the Examiner. Claims 1 and 9 are amended to recite that an insertion tube has a funnel-shaped proximal end. Support for this amendment can be found throughout the specification, for example, in FIGS. 1, 2A, and 2B. Claim 14 is canceled. Claim 15 is amended to depend from claim 9 rather than canceled claim 14. No new matter is added.

Claim Objections

Claim 9 is objected to for an informality regarding the phrase "contacting tissue scaffold." Claim 9 is amended as noted above to correct the informality.

Rejections Pursuant to 35 U.S.C. §102

Claims 1-3, 6, 8-11, 14, and 16 are rejected pursuant to 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,328,715 of Dragan et al. Applicants respectfully disagree.

Dragan does not teach or suggest a first component, which is effective to receive and dispense a tissue scaffold, having a funnel-shaped proximal end, as required by independent claims 1 and 9. Dragan instead discloses a syringe-type device having a flange (30) which is adjacent to an opening (32) formed through a barrel (28). The Examiner argues that the barrel (28) corresponds to the first component and that the flange (30) corresponds to the proximal end of the first component. Dragan does not in any way disclose a device having a funnel-shaped proximal end which, as shown in the Figures of the pending application, must spread gradually outwardly (proximally) in the manner of a trumpet. As clearly shown in FIG. 6A of Dragan, the flange (30) is not in the shape of a funnel extending from the barrel (28) but rather is merely a flange formed on the end of the barrel (28).

The ordinary meaning of “funnel” is “a cone-shaped utensil with a tube at the apex for conducting liquid or other substance through a small opening, as into a bottle, jug, or the like” (Dictionary.com). The definition clearly requires that any component that has the shape of a funnel be conical. The flange (30), as the proximal end of the barrel (28), certainly does not have the shape of a cone, but rather is in the shape of a cylinder, as illustrated in FIG. 6A showing a cross-sectional view of the device. Thus, the flange (30) is not funnel-shaped and Dragan does not teach this feature of the claims.

Accordingly, independent claims 1 and 9, as well as claims 2, 3, 6, 8, 10, 11, 14, and 16 which depend therefrom, distinguish over Dragan.

Rejections Pursuant to 35 U.S.C. §103

Claims 4-7, 15, 17, 18, and 19 are rejected pursuant to 35 U.S.C. §103(a) as being obvious over Dragan et al. Claims 4-7 depend from claim 1, and claims 15, 17, 18, and 19 depend from claim 9, and thus distinguish over Dragan for at least the same reasons discussed above. Claims 4-7, 15, 17, 18, and 19 therefore represent allowable subject matter.

Application No. 10/724,021
Filed: November 26, 2003
Group Art Unit: 3773
Examiner: Dornbusch, Dianne
Docket No.: 022956-0239 (MIT-5022)

Conclusion

Applicants submit that all pending claims are now in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicants if such communication is deemed to expedite prosecution of this application.

Dated: November 3, 2008

Respectfully submitted,

By Jaime L. Burke
Jaime L. Burke
Registration No.: 61,959
NUTTER MCCLENNEN & FISH LLP
World Trade Center West
155 Seaport Boulevard
Boston, Massachusetts 02210-2604
(617) 439-2888
(617) 310-9888 (Fax)
Agent for Applicant

1776872.1